

**CALENDAR ITEM
C11**

A 4
S 3

04/05/16
PRC 7203.9
N. Lee

AMENDMENT OF LEASE

LESSEE:

Central Valley Flood Protection Board
3310 El Camino Avenue, Suite 140
Sacramento, California 95821

AREA, LAND TYPE, AND LOCATION:

Designated areas along the Sacramento River, sloughs, distributaries, and tributaries that join it.

AUTHORIZED USE:

Construction and maintenance of new and existing bank protection.

LEASE TERM:

30 years, beginning May 1, 1988.

CONSIDERATION:

The public use and benefit; with the State reserving the right at any time to set a monetary rent if the Commission finds such action to be in the State's best interests.

PROPOSED AMENDMENT:

Amend the Lease to add a parcel of land and authorize the repair and maintenance of bank protection at River Mile (RM) 71.3R, as described in Exhibit A, in the Sacramento River near the city of Woodland, Yolo County. All other terms and conditions of the lease shall remain in effect without amendment.

STAFF ANALYSIS AND RECOMMENDATION:

Statutory Authority:

Public Resources Code sections 6005, 6216, and 6301; California Code of Regulations, Title 2, section 2000, subdivision (b).

CALENDAR ITEM NO. **C11** (CONT'D)

Public Trust and State's Best Interests Analysis:

The lease authorizes bank protection along approximately 405,000 linear feet of the Sacramento River and its tributaries and requires the Central Valley Flood Protection Board (CVFPB) to amend the lease to include sites for repair and maintenance as project sites become known. The lease is to a public entity to provide a public service and benefit to the public. The Lessee works in conjunction with the U.S. Army Corps of Engineers (Army Corps) to implement the Sacramento River Bank Protection Project (SRBPP). The proposed lease amendment (Project) authorizes a project site for repair and maintenance of existing bank protection along the Sacramento River.

This bank protection is consistent with the common law public trust doctrine because it serves as an aid to navigation by providing reinforced structural support to the banks of the waterway and limiting potentially harmful erosion of the bank into the waterway. The bank protection also confers benefits to the upland owners by ensuring sufficient sub-lateral support to the adjoining properties. Bank protection has existed for many years at this location and does not significantly alter the land or alienate the State's fee interest. Based on the foregoing, Commission staff believes that this bank protection is consistent with the public trust doctrine. In the alternative, Commission staff believes that the bank protection will not substantially interfere with the public trust needs at this location for the foreseeable term of the Project.

The lease includes certain provisions protecting the public use of the proposed lease area by requiring the CVFPB to obtain necessary permits. The lease also requires CVFPB to conduct all repair and maintenance work safely. The lease has a limited term of 30 years, which allows the Commission flexibility if it determines that the public trust needs of the area change over time.

For all the reasons above, Commission staff believes the proposed lease amendment is consistent with the common law public trust doctrine and in the best interests of the State.

OTHER PERTINENT INFORMATION:

1. Applicant has the right to use the upland adjoining the lease premises.
2. The SRBPP, authorized by Congress in 1960, directs the Army Corps to provide bank protection along approximately 405,000 linear feet of the Sacramento River and its tributaries. The State Legislature authorized the participation of the Central Valley Flood Protection Board (CVFPB),

CALENDAR ITEM NO. **C11** (CONT'D)

formerly called the Reclamation Board, in the SRBPP. The SRBPP area includes the Sacramento River from Chico (RM 0) to Collinsville (RM 194); Feather and American Rivers; the flood bypass system and associated canals; Delta sloughs; and reaches of lower minor tributaries including Cache Creek, Bear River, Yuba River, and Elder and Deer Creeks.

A Master Lease to CVFPB for the project was authorized by the Commission on May 9, 1988, effective May 1, 1988. The Master Lease authorizes maintenance of existing bank protection structures and construction of new bank protection structures as specific construction sites become known. The Master Lease also requires the CVFPB to seek amendments of the lease to include new sites. This Amendment is the sixteenth amendment to the Master Lease. The Master Lease was previously amended on June 30, 1988; March 8, 1994; August 21, 1996; August 26, 1997; June 19, 1998; December 16, 1998; November 26, 2001; August 19, 2003; October 6, 2004; June 26, 2006; June 26, 2006; December 14, 2006; June 24, 2008; June 1, 2009; June 21, 2013; and April 23, 2014.

3. In 2009, the CVFPB coordinated with the Army Corps to design bank protection measures for 24 priority erosion sites within the SRBPP planning area. Priority erosion sites are areas along the SRBPP levees that are at risk of erosional failure during flooding and/or normal flow conditions. Of the 24 proposed repair sites, the Commission approved 11 of them at its June 1, 2009, meeting and one at its June 21, 2013, meeting. The proposed project being included as part of this lease amendment is one of the 24 sites. The remaining 11 proposed projects have not been scheduled for repair to date.
4. The proposed Project involves implementing bank protection measures to preclude ongoing streambank erosion at River Mile 71.3R to prevent levee failure. The bank protection measures will include: (1) protecting the toe and lower slopes of the bank with rock; (2) establishing a berm around the mean summer water level to provide aquatic habitat during lower and higher river stages in winter and spring; (3) placing instream wood material for aquatic habitat; and (4) planting pole and container plantings to stabilize the bank and provide riparian and shaded riverine aquatic habitat.
5. A Mitigated Negative Declaration and Mitigation Monitoring Program, State Clearinghouse No. 2009042052, was prepared by the CVFPB and adopted on May 19, 2009, for this project. The California State Lands Commission staff has reviewed such document and Mitigation Monitoring

CALENDAR ITEM NO. **C11** (CONT'D)

Program prepared pursuant to the provisions of the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21081.6) and adopted by the lead agency.

As part of the Commission's approval of the project on June 21, 2013, the Project relied on the same environmental document and the Commission adopted the Mitigation Monitoring Program, as contained in Exhibit C of Calendar Item 26 at the June 21, 2013, Commission meeting.

http://archives.slc.ca.gov/Meeting_Summaries/2013_Documents/06-21-13/Items_and_Exhibits/C26.pdf.

Commission staff reviewed the proposed amendment to the Lease to add a parcel of land and authorize the repair and maintenance of bank protection at RM 71.3R and determined that this does not involve any "substantial changes" or "new information of substantial importance" resulting in any new or substantially more severe significant impacts, and thus no additional CEQA analysis is required as specified in Public Resources Code section 21166 and section 15162, subdivision (a) of the State CEQA Guidelines.

6. This activity involves lands identified as possessing significant environmental values pursuant to Public Resources Code section 6370 et seq., but such activity will not affect those significant lands. Based upon the staff's consultation with the persons nominating such lands and through the CEQA review process, it is the staff's opinion that the project, as proposed, is consistent with its use classification.
7. The proposed action is consistent with the Commission's 2016-2020 Strategic Plan, Strategy 1.1 – Deliver the highest levels of public health and safety in the protection, preservation and responsible economic use of the lands and resources under the Commission's jurisdiction.

FURTHER APPROVALS REQUIRED:

U.S. Fish and Wildlife Service, NOAA Fisheries, Central Valley Regional Water Quality Control Board, State Historic Preservation Office.

EXHIBITS:

- A. Land Description
- B. Site and Location Map

CALENDAR ITEM NO. **C11** (CONT'D)

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Find that a Mitigated Negative Declaration, State Clearinghouse No. 2009042052, was prepared by the Central Valley Flood Protection Board and adopted on May 19, 2009, for this Project and that the Commission has reviewed and considered the information contained therein.

Find that in its independent judgment, none of the events specified in Public Resources Code section 21166 or State CEQA Guidelines section 15162 resulting in any new or substantially more severe significant impacts has occurred, and therefore, no additional CEQA analysis is required.

Re-adopt the Mitigation Monitoring Program, as contained on file in the Sacramento Office of the State Lands Commission as Exhibit C to Calendar Item 26 from the June 21, 2013, Commission meeting.

PUBLIC TRUST AND STATE'S BEST INTEREST:

Find that the proposed lease amendment will not substantially interfere with the public's public trust needs and values at this location, is consistent with the common law public trust doctrine, and is in the best interests of the State.

SIGNIFICANT LANDS INVENTORY FINDING:

Find that this activity is consistent with the use classification designated by the Commission for the land pursuant to Public Resources Code section 6370 et seq.

AUTHORIZATION:

Authorize the Amendment of Master Lease No. PRC 7203.9, a General Lease – Public Agency Use, to add a parcel of sovereign land as described on Exhibit A and shown on Exhibit B (for reference purposes only) attached and by this reference made a part hereof, effective April 5, 2016, to authorize repair and maintenance of bank protection; all other terms and conditions of the lease will remain in effect without amendment.

EXHIBIT A

PRC 7203.9

LAND DESCRIPTION

One (1) parcel of submerged land situated in the bed of the Sacramento River, lying adjacent to Swamp and Overflow Lands Survey 460 patented December 26, 1879, County of Yolo, State of California, more particularly described as follows:

All those lands underlying existing bank protection being 600 feet long and 200 feet wide situate on the right bank of the Sacramento River located at river mile 71.3 left.

EXCEPTING THEREFROM any portion lying landward of the ordinary high water mark of the right bank of the Sacramento River.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared 03/15/2016 by the California State Lands Commission Boundary Unit.

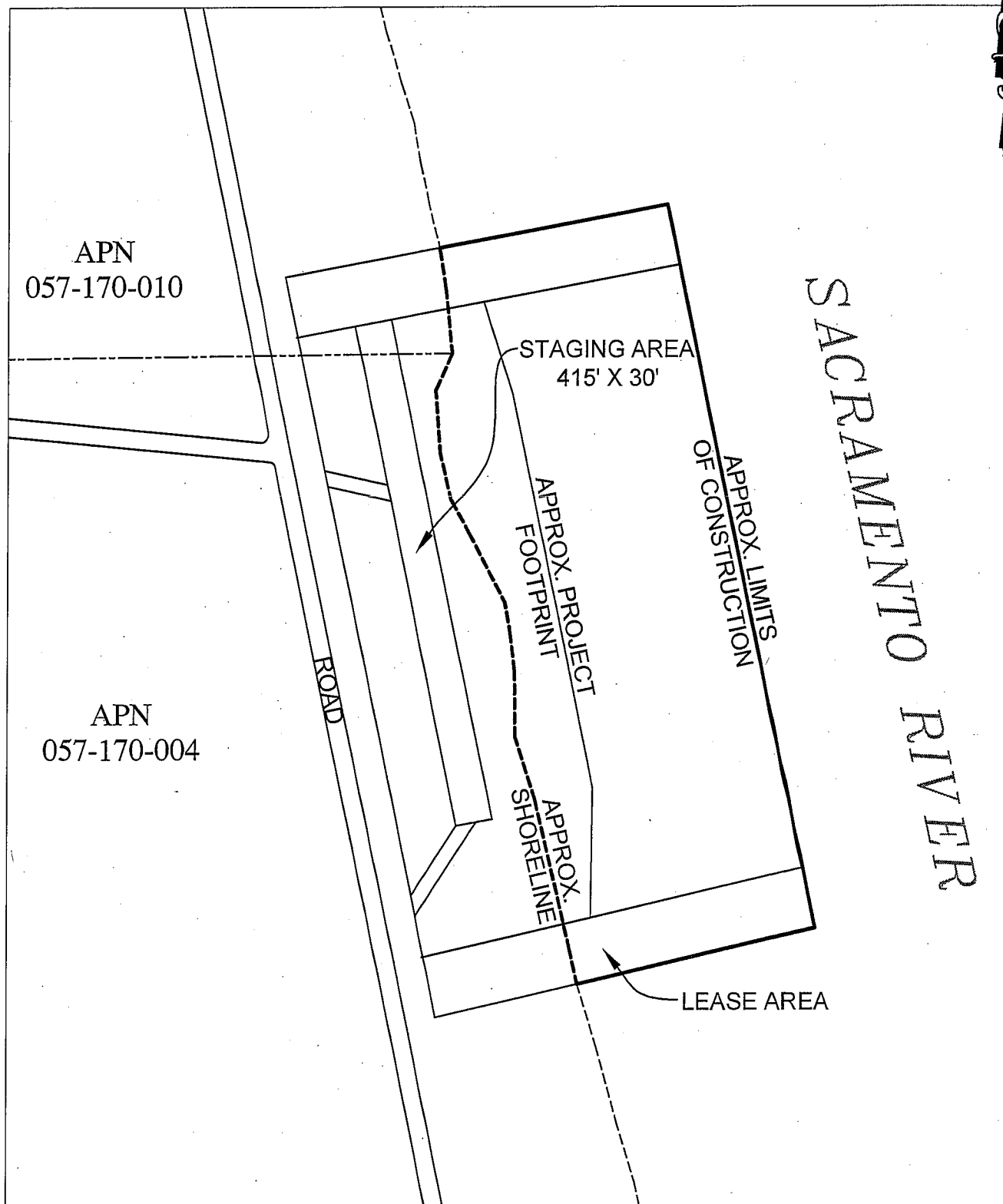


EXHIBIT A

Page 2 of 2

RGB 03/14/16

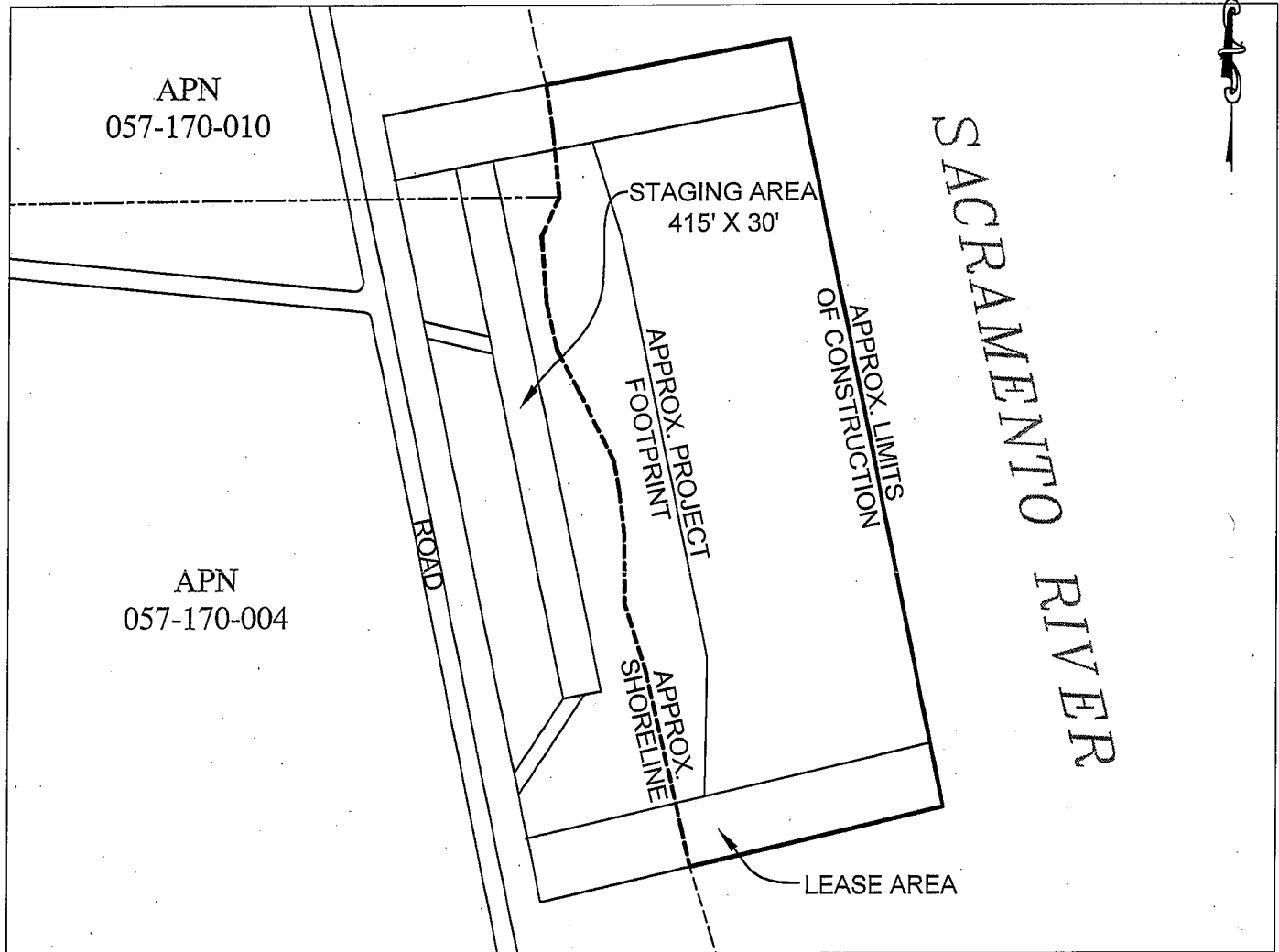
LAND DESCRIPTION PLAT
PRC 7203.9, CENTRAL VALLEY
FLOOD PROTECTION BOARD
YOLO COUNTY

CALIFORNIA STATE
LANDS COMMISSION



NO SCALE

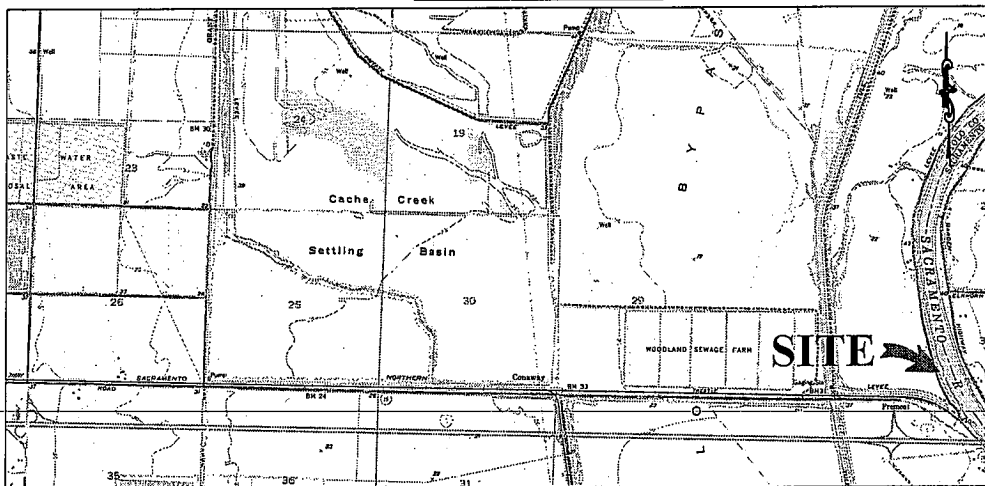
SITE



SACRAMENTO RIVER, RM 71.3L, NEAR WOODLAND

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

This Exhibit is solely for purposes of generally defining the lease premises, is based on unverified information provided by the Lessee or other parties and is not intended to be, nor shall it be construed as, a waiver or limitation of any State interest in the subject or any other property.

Exhibit B

PRC 7203.9
CENTRAL VALLEY FLOOD
PROTECTION BOARD
GENERAL LEASE -
PUBLIC AGENCY USE
YOLO COUNTY



RGB 03/14/16